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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,391

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Ulrike Groeger

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EXAMINER

BROADHEAD, BRIAN J

ART UNIT

PAPER NUMBER

3664

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DELIVERY MODE

09/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,391	Applicant(s) GROEGER ET AL.	
	Examiner BRIAN J. BROADHEAD	Art Unit 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6-17-08, 3-30-06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because it is not clear what “comes out of” box 208; figure two is described as a flow diagram yet it has a piece of the apparatus shown in item 211 and not any type of step; and items “30” is not in figure 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings would be more useful and helpful in understanding if the steps described by the many boxes were written in the boxes. This may also clear up any misunderstandings and the objections above.

Information Disclosure Statement

3. The information disclosure statement filed on March 30, 2006 does not fully comply with the requirements of 37 CFR 1.98(b) because: A copy of each foreign patent document has not been provided. Since the submission appears to be *bona fide*, applicant is given **ONE (1) MONTH** from the date of this notice to supply the above mentioned omissions or corrections in the information disclosure statement. **NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b).** Failure to timely comply with this notice will result in the above mentioned information disclosure statement being placed in the application file with the noncomplying information **not** being considered. See 37 CFR 1.97(i).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9 through 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “pre-crash algorithm” in claim 9 is used by the claim to mean “an

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algorithm for directing action after and impact”, while the accepted meaning is “an algorithm for directing some action before an impact.” The term is indefinite because the specification does not clearly redefine the term. In the specification the "pre-crash algorithm" is described as using sensor data to activate an occupant restraint after the point of impact. The conventional use of “pre-crash algorithm” is to describe taking action before the point of impact, for example, adjusting a steering column, or pre-tensioning seat belts.

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for triggering a pedestrian personal protection device as a function of the fourth signal and the fifth signal, does not reasonably provide enablement for the triggering of a generic protection device as a function of the fourth and fifth signals. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to operate the invention commensurate in scope with these claims. The problem can best be explained by looking at figure 2. Box 210 receive both the fourth and fifth signals, while box 209 only receives one of the signals. The term “personal protection device” is define in the first paragraph of the "summary of the invention" as applying to both pedestrians and occupants.

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9. Claim 9-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to disclose how the pedestrian protection algorithm and pre-crash algorithms actual work. They are essentially black boxes and fail to disclose their operation.

10. Claims 9-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to disclose how the pedestrian protection algorithm and pre-crash algorithms actual work. They are essentially black boxes and fail to disclose their operation.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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12. Claims 9-16 are rejected under 35 U.S.C. 102(e) as being fully anticipated by Stopczynski, 6721659.

13. As per claim 9, Stopczynski discloses an apparatus for triggering a personal protection device on line 60, on column 5, through line 5, on column 6; a surrounding sensor suite (14); a contact sensor suite (14); at least one arrangement for influencing a pedestrian protection algorithm as a function of a first signal of the surroundings sensor suite, for influencing a pre-crash algorithm as a function of a second signal of the pedestrian protection algorithm that takes into account a third signal of the contact sensor suite, and for triggering the personal protection device as a function of a fourth signal of the pedestrian protection algorithm and a fifth signal of the pre-crash algorithm (162, 174, and 178). Stopczynski uses certain sensors to predict an impact and then verifies this with additional sensors when they provide confirmation signals. This includes the time of impact data discussed on line 2, on column 5, lines 42-67, on column 6, and lines 11-17, on column 7.

14. As per claims 10, 11, 12, 13, 14, 15, and 16, Stopczynski discloses the first signal indicates an estimate of an impact time(162); the second signal indicates an impact time(174); the pre-crash algorithm determines an impact velocity as a function of the second signal on lines 42-67, on column 6; the pedestrian protection algorithm adjusts a first noise threshold as a function of the first signal and the pre-crash algorithm adjusts a second noise threshold as a function of the second signal on line 13, on column 5 (the sensitivities of the sensors that are adjusted are noise thresholds); the third signal is a contact signal on lines 38-42, on column 4; the apparatus provides an

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impact velocity for the pre-crash algorithm and for the pedestrian protection algorithm (174).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN J. BROADHEAD whose telephone number is (571)272-6957. The examiner can normally be reached on Monday through Thursday or Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian J. Broadhead/
Examiner, Art Unit 3664